

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA

v.

BETTY KATHERINE SMITH

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**No. 1:20-cr-75-HSO-JCG-1
No. 1:22-cv-147-HSO**

**SECOND ORDER REQUIRING AFFIDAVIT FROM BETTY KATHERINE
SMITH'S FORMER COUNSEL AND REQUIRING ANSWER BY THE
UNITED STATES ATTORNEY**

BEFORE THE COURT is the Motion [81] of Betty Katherine Smith to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody, filed pursuant to 28 U.S.C. § 2255. On June 14, 2022, the Court entered an Order [82] instructing the Clerk of the Court to serve Betty Katherine Smith's pleadings and the Order [82] on the United States Attorney and directing the Government to serve a copy of Betty Katherine Smith's Motion [81] on her former counsel, Michael Clark Hester. Order [82] at 1. The Order [82] further directed Mr. Hester to respond to Betty Katherine Smith's allegations by filing a written affidavit within thirty days of the date the Order [82] was entered. *Id.* To date, the Court has not received Mr. Hester's affidavit and the Government has not filed an Answer to Betty Katherine Smith's Motion [81]. Accordingly,

IT IS, THEREFORE, ORDERED AND ADJUDGED that, the Government is directed to re-serve a copy of Betty Katherine Smith's Motion [81]

upon her former counsel, Michael Clark Hester, along with a copy of the Court's previous Order [82] and this Order. The Government shall inform Mr. Hester that his response to the Court's Order [81] is past due and notify him that he has until **August 17, 2022**, to respond to Smith's allegations by filing a written affidavit with the Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that, the Government shall file its Answer in the form provided by Rule 5(b) of the § 2255 Rules no later **ten days** after the above-referenced affidavit is filed by Smith's former counsel. If Smith's former counsel fails to respond to the Court's Order [82], the Government shall file its Answer on or before **August 31, 2022**, without the benefit of a response from Smith's former counsel.

IT IS, FURTHER, ORDERED AND ADJUDGED that, the Government shall forward a copy of its Answer to Betty Katherine Smith.

SO ORDERED AND ADJUDGED, this the 3rd day of August, 2022.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE